

ARTICLE III. SUBDIVISION CONTROL*

**Editor's note: This article consists of the subdivision control ordinance, G.O. 2, 1998, adopted Jan. 12, 1998. Future amendments will be indicated by a parenthetical history note following the amended section.*

DIVISION 1. GENERALLY

Sec. 731-300. Title.

These regulations (hereinafter "these regulations") shall officially be known as the Subdivision Control Ordinance for Marion County, Indiana.

Sec. 731-301. Policy.

(a) The subdivision of land and the subsequent development of the subdivided plat is subject to the control of the municipality and shall be carried out in accordance with the Comprehensive Plan of Marion County in order to achieve the orderly, planned, efficient, and economical development of the municipality.

(b) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until the provision has been made for adequate public facilities, drainage, water, sewerage, and capital improvements such as schools, parks, recreational facilities, transportation facilities and improvements.

Sec. 731-302. Purposes.

These regulations are adopted for the following purposes:

- (1) To protect and provide for the public health, safety, comfort, morals and general welfare of Marion County.
- (2) To secure adequate light, air, and convenience of access; to secure safety from fire, flood, and other danger; and to prevent overcrowding of the land and undue congestion of population.
- (3) To protect the character and the social and economic stability of all parts of the county by assuring: the timing and sequencing of development; the promotion of infill development in existing neighborhoods; the promotion of adequate public facilities; proper urban form and open space separation of urban areas; to protect environmentally critical areas and areas premature for urban development.
- (4) To protect and conserve property values throughout the county and the value of buildings and improvements upon the land.
- (5) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, and other public requirements and facilities.
- (6) To provide a beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the county, having particular regard to the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets.
- (7) To establish reasonable standards of design and procedures for subdivisions and resubdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land.
- (8) To ensure that public facilities and services are available to support development and will have a sufficient capacity to serve the proposed subdivision, through requiring the developer to pay fees, furnish land, or establish mitigation measures to ensure that the development provides its share of capital facilities' needs generated by the development.
- (9) To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table, and to encourage the responsible use and management of

natural resources throughout the county in order to preserve the integrity, stability, and beauty of the community and the value of the land.

(10) To assist in the preservation of the natural beauty and topography of the county and to ensure appropriate development with regard to these natural features.

(11) To provide for open spaces through the most efficient design and layout of the land, while preserving the density of development as established in the zoning ordinances of Marion County, Indiana.

(12) To remedy the problems associated with inappropriately subdivided lands, including partial or incomplete subdivision, and inferior subdivision.

Sec. 731-303. Authority.

The Metropolitan Development Commission of Marion County, Indiana (hereinafter "Commission"), or its appointed Plat Committee, per IC 36-7-4-701(e) (hereinafter "Committee"), is vested with the authority to review, approve, conditionally approve and disprove applications for the subdivision of land, including primary and secondary plats. Applications for the vacation of plats or parts of plats, and applications for the vacation of alleys, streets, easements or public grounds are under the exclusive control of the Committee. The Committee may grant waivers from these regulations pursuant to the provisions of section 731-306.

Sec. 731-304. Jurisdiction.

(a) The zoning ordinances state in which zoning districts the approval of subdivision plats is allowed in Marion County, Indiana. The zoning ordinances also state in which zoning districts and under what circumstances the approval of subdivision plats is required in Marion County, Indiana. The approval of subdivision plats, when required by the zoning ordinances, shall be done in compliance with the provisions of these regulations. No land required by the zoning ordinances to be approved as a subdivision plat may be subdivided through the use of any legal description other than with reference to a plat approved by the Committee in accordance with these regulations, except for the following instances:

- The sale, gift or exchange of parcels between adjacent landowners that does not create additional building sites.
- The division of land into parcel(s) of three (3) acres or greater in size, not involving any new streets or easements of access.

(b) Condominium development governed by IC 32-1-6 is not regulated by these regulations.

(c) Unless specified by the zoning ordinances, commercial and industrial land is not required to be platted. However, nothing prevents the platting of these lands under these regulations.

Sec. 731-305. State statute citation.

The applicable Indiana Planning and Zoning Laws pertaining to this article are:

- (1) The 700 Series Subdivision Control (IC 36-7-4-700). Regulations contained in, and revisions to, this article reflect the provisions of the 700 Series Subdivision Control; and
- (2) IC 36-7-3-11 (as referenced by the 700 Series Subdivision noted in (1) above).

Sec. 731-306. Waiver of standards and specifications.

(a) *General.* Where the Committee finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve waivers or modifications to these subdivision regulations so that substantial justice may be done and the public interest served. The waiver or modification shall not have the effect of nullifying the intent and purpose of these regulations. The Committee shall not approve waivers or modifications unless it shall make findings based upon the evidence presented to it in each specific case that:

- (1) The granting of the waiver or modification will not be detrimental to the public health, safety, or welfare or injurious to other property;
- (2) The conditions upon which the request is based are individual to the property for which the relief is sought and are not applicable generally to other property;
- (3) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;
- (4) The relief sought shall not in any manner vary the provisions of the zoning ordinances, or official zoning base maps, except as those documents may be amended in the manner prescribed by law.

(b) *Deferral or waiver of required improvements.*

(1) The Committee may defer or waive at the time of primary approval, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not requisite in the interests of the public health, safety, and general welfare, or which are inappropriate because of the inadequacy or inexistence of connecting facilities. Any determination to defer or waive the provision of any public improvement must be made on the record, and the reasons for the deferral or waiver also shall be expressly made on the record.

(2) Whenever it is deemed necessary by the Committee to defer the construction of any improvement required under these regulations because of incompatible grades/topography, future planning, inadequate or nonexistent connecting facilities, or for other reasons, the subdivider shall pay his fair share of the costs of the future improvements to the local government prior to signing of the secondary subdivision plat by the staff of the Commission, or the developer may execute a separate subdivision improvement agreement secured by a letter of credit guaranteeing completion of the deferred improvements upon demand of the local government.

(c) *Conditions.* In approving waivers or modifications, the Committee may require such conditions as will, in its judgment, secure substantially the purposes described in section 731-302.

(d) *Procedures.* Documentation for waiver or modification shall be submitted in writing by the subdivider at the time when the primary plat is filed for the consideration of the Committee. The documentation shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

DIVISION 2. SUBDIVISION REGULATIONS

Sec. 731-320. Subdivision application procedures and approval process; general procedure.

(a) *Classification of subdivisions.* Before any land is subdivided, the owner of the property proposed to be subdivided, or his authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the provisions and procedures of this article. Subdivisions are classified into two (2) types:

- (1) *Minor subdivision*, defined as any subdivision which:
 - a. Contains no more than three (3) lots;
 - b. Has all lots fronting on an existing street;
 - c. Does not involve the construction of a new street or extension of an existing street;
 - d. Does not necessitate the extension of municipal facilities or the creation of any public improvements; and
 - e. Does not adversely affect the remainder of the parcel or adjoining property.

Further, to be classified as a minor subdivision, the land shall be platted into developable lots, as required by the applicable zoning ordinance, and the parent tract of land from which any part of

the lots are platted shall not have been a part of three (3) or more previous minor subdivision platting requests.

(2) *Major subdivision*, defined as all subdivisions not classified as minor subdivisions, including but not limited to subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of the local government facilities or the creation of any public improvements.

(b) *Official submission*.

(1) *Application*. The applicant for primary plat approval shall file, on forms provided by the Commission, a petition for plat approval, to include the following items:

- a. Primary plat.
- b. Topographic map (not required for minor subdivisions).
- c. Area map.
- d. Legal description of property to be platted.
- e. Applicable filing fee.
- f. Other information as noted in the Rules of Procedure of the Plat Committee of the Metropolitan Development Commission of Marion County, Indiana.

Within thirty (30) days after receipt of an application for subdivision approval, the staff shall set the date for a hearing before the Committee and provide for notice in accordance with section (d) of this section (per IC 36-7-4-706) and the Rules of Procedure of the Plat Committee of the Metropolitan Development Commission of Marion County, Indiana.

(2) *Reduced requirements for minor subdivisions*. In platting minor subdivisions, the following approvals and documents shall not be required:

- a. Topographic map submittal.
- b. Overall primary plat drainage approval.
- c. Bonding.
- d. Construction plan approval at the time of secondary plat recording. However, all applicable specifications and standards of the City of Indianapolis/Marion County shall be met and documented at the time of applying for required permits.

(3) *Committee action*. In accordance with IC 36-7-4-707, the Committee shall by vote at a public hearing approve, conditionally approve, or deny the petition for primary plat approval. If the Committee determines that the primary plat is in compliance with the standards of these regulations (or will be in compliance after meeting specified conditions), it shall make written findings to that effect and shall grant primary approval of the plat. If the Committee determines that the primary plat is not in compliance with the standards of these regulations (even assuming that specified conditions will be met), it shall make written findings to that effect and shall deny primary approval of the plat. The findings shall express the reasons for the decision. The decision shall be signed by the Administrator. The applicant shall be provided with a copy of the findings and decision.

(4) *Appeal of Committee decision*. In accordance with IC 36-7-4-708, an applicant or any other interested party may appeal the primary plat approval or denial, or the imposition of a condition on primary approval by the Plat Committee to the full Metropolitan Development Commission. Notice of the appeal shall be filed with the Metropolitan Development Commission within ten (10) days after the action of the Plat Committee. Upon the filing of an appeal, a public hearing shall be held by the Metropolitan Development Commission on the petition, in the same manner, and following procedures as set forth in the Rules of Procedure of the Plat Committee of the Metropolitan Development Commission of Marion County, Indiana. After a public hearing on the

appeal and vote by the Metropolitan Development Commission, the primary approval or denial of a plat by the Commission or the imposition of a condition on primary approval is a final decision of the Metropolitan Development Commission that may be reviewed as provided by IC 36-7-4-1016.

(5) *Effective period of primary plat approval.* The approval of a primary plat shall be effective for a period of two (2) years from the date that the primary plat is approved by the Committee. The applicant shall have submitted a secondary plat for approval prior to the end of such time. Any plat that is not recorded within such two-year period shall, at the expiration of such two-year period, become invalid and shall not be entitled to recording without reapproval by the Committee, in accordance with the same standards, requirements and procedures specified by these regulations for original plat approval.

(6) *Secondary approval.* Secondary approval may be granted after expiration of the time provided for appeal under subsection (b)(4) above. No notice or hearing is required, and the provisions of these regulations concerning notice and hearing do not apply to secondary approvals. The Administrator, as authorized by IC 36-7-4-710, has the authority to grant secondary approval on behalf of the Commission. The Administrator shall not grant secondary approval unless:

- a. All conditions of primary plat approval are met; and
- b. All zoning requirements are met; and
- c. The secondary plat is in substantial compliance with the approved primary plat; and
- d. The plat has been stamped by the applicable township assessor.

A plat of a subdivision may not be filed with the Auditor, and the recorder may not record it, unless it has been granted secondary approval and has been signed and certified with the Commission seal by the Administrator. The filing and recording of the plat is without legal effect unless secondary approval has been granted by the Administrator.

In granting secondary approval, the Administrator shall affix to the plat the seal of the Commission, the approval of its members, and attach the certificate that public notice of the hearing was published.

Secondary approval may be granted to a plat for a subdivision in which the improvements and installations have not been completed if the applicant provides satisfactory assurance that the installations and improvements will be installed or extended in compliance with section 731-321 of these regulations.

(7) *Recording of plats.*

- a. A plat shall not be recorded unless the plat bears all the following:
 1. The seal of the Metropolitan Development Commission of Marion County, Indiana.
 2. Stamp of the applicable township assessor.
 3. Any and all owners' consent signatures, notarized.
 4. Dedication statement for streets and public utility easements, if required.
 5. Addresses and street names as approved by the applicable city agency having jurisdiction.
 6. Any restrictive covenants (if proposed).
 7. Site distance covenant (See appendix).
 8. Enforcement covenant (See appendix).
 9. Storm drainage covenant (See appendix).

10. Sanitary sewer covenant (See appendix).
11. Stamp by the registered land surveyor.
12. Stamp of the county auditor.

b. The recorded plat shall be ratified by the Committee.

c. Every secondary plat approved by the Committee after the effective date of this article shall be recorded within two (2) years after the date of that conditional approval of the primary plat.

d. Any plat that is not recorded within such two-year period shall, at the expiration of such two-year period, become invalid and shall not be entitled to recording without reapproval by the Committee, in accordance with the same standards, requirements and procedures specified by these regulations for original plat approval.

e. Once the plat has been recorded, copies of the recorded plat and covenant document (the instrument number clearly appearing on each) shall be delivered to the Administrator prior to the issuance of improvement location permits. The Administrator shall determine the applicable number of copies of each document required.

(c) *Filing fees.* In order to compensate for the expense of publishing notice and for the review and verification of applications, filing fees shall be paid by the applicant at the time of filing a petition as set by the Commission in its Rules of Procedure for the Plat Committee of the Metropolitan Development Commission of Marion County, Indiana, in accordance with IC 36-7-4-704.

(d) *Notice.*

(1) *Notice requirements - plats or vacations of plats.*

a. *Notice by publication.* When the Committee is required by law to publish a notice of a public hearing on a petition, such notice shall be published by the Committee at least ten (10) days prior to the date set for the hearing as required by IC 5-3-1;

b. *Additional notice.* Additional notice shall be given by petitioner to owners of adjoining land, neighborhood organizations and affected city-county councilors; and

c. *Notice on subject property.* Notice shall be given in accordance with the Rules of Procedure of the Plat Committee of the Metropolitan Development Commission of Marion County, Indiana, in accordance with (as applicable):

IC 36-7-4-706 (platting);

IC 36-7-4-712 (vacation of plats or parts of plats);

IC 36-7-4-712 (vacation of public ways, easements or public places or parts thereof).

The requirements of subsections (d)(1)b. and c. of this section shall not be applicable to petitions initiated by the Commission. The Commission shall determine the requirements, if any, for notice on such petitions.

d. *Agencies to be notified regarding plats.* The petitioner shall send a copy of the primary plat and a transmittal letter to the listing of public and private agencies and utilities, adopted by the Plat Committee as "agencies to be notified regarding plats" prior to filing for plat approval. The transmittal letter shall indicate that comments on the plat should be sent to both petitioner and the Department of Metropolitan Development. A copy of the transmittal letter to each of the agencies listed, or a notarized affidavit certifying that such transmittal was sent to the agencies, shall be submitted with the filing of a Plat Petition.

(2) *Affidavit of notice.* An affidavit of notice shall be given in accordance with the Rules of Procedure of the Plat Committee of the Metropolitan Development Commission of Marion County, Indiana, in accordance with IC 36-7-3-11, or IC 36-7-4-706 as applicable.

Sec. 731-321. Assurance for completion and maintenance of improvements.

(a) *Bond for subdivision improvement (performance bond or letter of credit).*

(1) *Completion of improvements.* Before the secondary plat is signed by the Administrator, all applicants shall be required to complete, in accordance with the Committee's decision and to the satisfaction of the municipality, all the street, sanitary sewer and storm drainage, sidewalks, street signs, monuments, erosion control, street lights, and other public improvements, including lot improvements on the individual lots of the subdivision, as required in these regulations, specified in the secondary plat and as approved by the Committee, and to dedicate those public improvements to the municipality, free and clear of all liens and encumbrances on the dedicated property and public improvements.

(2) *Subdivision improvement agreement and guarantee.*

a. The Committee, in its sole discretion, may waive the requirement that the applicant complete and dedicate all public improvements prior to approval of the secondary plat and, as an alternative, permit the applicant to enter into a subdivision improvement agreement by which the subdivider covenants to complete all required sanitary sewer, street base, binder and curbs, storm drainage, street signs, monuments, erosion control and street light improvements no later than two (2) years following the date on which the Administrator signs the secondary plat, and to complete all required sidewalks, erosion control, street sign, monumentation and street topcoat improvements. The applicant shall covenant to maintain each required improvement and also shall warrant the governing body of the dedication of the last completed improvement. The subdivision improvement agreement shall contain such other terms and conditions agreed to by the applicant and the Commission.

A subdivision improvement agreement is not required for minor subdivisions.

b. Performance surety. A performance bond or letter of credit shall be provided before the seal of the Commission, the approval of its officers, and the certificate that public notice of the hearing was published, are affixed and attached to the plat. The performance bond or letter of credit shall:

1. Run jointly and severally to Marion County, Indiana, the Metropolitan Development Commission of Marion County, Indiana, and, if applicable, any other governmental unit or agency thereof having a legal responsibility for the construction and completion of such improvements and installations (see subsection b.8. below).
2. Be in an amount equal to one hundred (100) percent of the cost, as estimated by the director of the Department of Metropolitan Development, of all improvements and installations as required by section 731-323 of this article. However, the cost of any of such required improvements and installations which have been constructed, installed and completed in compliance with the requirements of this article prior to the providing of this bond or letter of credit and for which sufficient written proof of such construction, installation and completion has been furnished to the Commission as required by subsection (a)(2)b.4. of this article; and the cost of any improvement or installation for which an equivalent bond (running jointly and severally to Marion County, Indiana, the Metropolitan Development Commission of Marion County, Indiana, and, if applicable, any other governmental unit or agency thereof having a legal responsibility for the construction, completion or maintenance of such

improvement or installation (see subsection b.8. below)) has previously been provided to such other governmental unit or agency and a certified copy of which has been furnished to the Commission; and further excluding the cost of the public, group and individual water supply improvements and installations required by section 731-323(h) of this article. Nothing contained in this subparagraph shall, however, exclude any of such improvements and installations from the requirements and coverage of this bond or letter as specified in subsections (a)(2)b.4. and 5. hereof, shall be excluded.

3. Provide surety satisfactory to the Commission.

4. Be in effect until, and terminate ninety (90) days after, the filing with the applicable city agency having jurisdiction of the completion affidavit, including any required as-built drawings, obtained from the appropriate governmental unit or units as required by subsection (a)(2)c. of this article, or ninety (90) days after the filing with the Commission of proof of the construction, installation and completion of such improvements and installations in compliance with the requirements, standards and specifications of these regulations, unless within such ninety-day period the director determines that the requirements, standards and specifications of these regulations applicable to the construction, installation and completion of such improvements and installations have not been met and notifies the applicant of such determination (by certified/registered or first class mail sent to the applicant's address appearing on the application for plat approval), in which event such bond shall continue to run until the filing of proof that, and the director's determination that, such standards, requirements and specifications have been met, in accordance with these regulations.

5. Specify that all such required improvements and installations shall be completed in accordance with the requirements and specifications of this article prior to the time that houses or residential structures have been built upon eighty-one (81) percent of the lots shown upon such plat or within three (3) years after the date of the Commission's affixing its approval to such plat, whichever event first occurs. Nothing contained in this subsection shall, however, require such improvements and installations to be completed earlier than one (1) year after the date of the Commission's affixing its approval to such plat.

6. Provide that upon completion of such required improvements and installations, but prior to the acceptance thereof for public maintenance by the appropriate governmental agency or release of performance surety, the applicant shall provide a three-year maintenance bond as required by subsection (b) of this section.

7. Such bond or letter of credit shall be filed on the approved City of Indianapolis/Department of Metropolitan Development forms titled either "Bond For Subdivision Improvements," or "Irrevocable Standby Letter of Credit."

8. Beneficiary notation:

(i) For projects within the City of Indianapolis and not within the jurisdiction of an excluded city or town (Beech Grove, Lawrence, Southport, Speedway), the beneficiary shall be the City of Indianapolis.

(ii) For projects within the jurisdiction of an excluded city or town (Beech Grove, Lawrence, Southport, Speedway), the beneficiary shall be jointly the City of Indianapolis and the excluded city.

c. Certificate of completion and compliance.

1. Upon the completion of all improvements and installations as required by section 731-323 of this article, the applicant shall furnish the applicable city agency

having jurisdiction, and any other appropriate governmental units having a legal responsibility for the completion of such improvements and installations, with sufficient written proof that the improvements and installations have been constructed, installed and completed in compliance with the requirements of these regulations.

2. Upon the acceptance of the improvements and installations by the appropriate governmental unit or units, the applicant shall obtain a completion affidavit from such governmental unit or units, stating that the required improvements and installations have been accepted for public maintenance by the governmental unit or units, subject to the terms of the three-year maintenance bond provided by the applicant, and shall file such completion affidavit with the city/county.

(b) *Maintenance bond.* Upon the completion of the following required improvements and installations: streets, sanitary sewer and storm drainage and sidewalks, but prior to the acceptance thereof for public maintenance by the appropriate governmental agency, the applicant shall provide a three-year bond, with the applicant or some other person satisfactory to the Commission as principal, which shall:

(1) Beneficiary notation:

- a. Run jointly and severally to Marion County, Indiana, the Metropolitan Development Commission of Marion County, Indiana, and, if applicable, any other governmental unit or agency thereof having a legal responsibility for the construction, completion or maintenance of such improvements and installations.
- b. For projects within the City of Indianapolis and not within the jurisdiction of an excluded city or town (Beech Grove, Lawrence, Southport, Speedway), the beneficiary shall be the City of Indianapolis.
- c. For projects within the jurisdiction of an excluded city or town (Beech Grove, Lawrence, Speedway, etc.), the beneficiaries shall be jointly the City of Indianapolis and the excluded city.

(2) Be in an amount equal to twenty (20) percent of the cost, as estimated by the director of the Department of Metropolitan Development, of all improvements and installations as required by section 731-323 of this article, excluding, however, the cost of the public, group and individual water supply improvements and installations required by section 731-323 of this article and the cost of any improvement or installation for which an equivalent bond (which runs jointly and severally to Marion County, Indiana, the Metropolitan Development Commission of Marion County, Indiana, and, if applicable, any other governmental unit or agency thereof having a legal responsibility for the construction, completion or maintenance of such improvement or installation) has previously been provided such other governmental unit or agency and a copy of which has been furnished and installations from the requirements and coverage of this bond as specified in subparagraphs (4) and (5) of this subsection.

(3) Provide surety satisfactory to the Commission.

(4) Warrant the workmanship and all materials used in the construction, installation and completion of such improvements and installations to be of good quality and constructed and completed in a workman-like manner in accordance with the standards, specifications and requirements of these regulations and the satisfactory plans and specifications therefor submitted to the director of the Department of Metropolitan Development.

(5) Provide that for a period of three (3) years after formal acceptance, the applicant shall at his own expense make all repairs to such improvements and installations, or the foundations thereof, which may become necessary by reason of improper workmanship or materials, but not including any damage to such improvements and installations resulting from forces or circumstances beyond the control of the applicant or occasioned by the inadequacy of the standards, specifications or requirements of this article.

(6) Maintenance bonds shall be filed on the approved City of Indianapolis/Department of Metropolitan Development form titled "Maintenance Bond."

Maintenance bonds shall not be required for the following improvements: Street signs, monuments, erosion control, street lights.

(c) *Deferral or waiver of required improvements.* Refer to section 731-306 of these regulations.

(d) *Use of improvement or maintenance bond funds.* Any funds received from the performance bonds or maintenance bonds required by these regulations shall be used only for the purpose of making the improvements, installations or repair for which such bonds were provided, in accordance with the standards, specifications and requirements of these regulations.

Sec. 731-322. Requirements for improvements, reservations, and design; general subdivision standards.

(a) *Streets.* All proposed plats submitted for Committee approval under the provisions of these regulations shall allocate adequate areas for streets in conformity with the Comprehensive Plan and Official Thoroughfare Plan for Marion County, Indiana, and shall designate and label all such streets thereon in accordance with the following definitions, specifications and requirements regarding platting width, right-of-way, and control of access.

(1) *Street classification and minimum street rights-of-way.*

a. *Expressway.* Any street designated and labelled as an "expressway" shall be a divided arterial street designed, planned and intended for through vehicular traffic in conformance with the Comprehensive Plan and Thoroughfare Plan for Marion County, Indiana, with full or partial control of access thereto. The minimum right-of-way required for an expressway shall be as designated by the Official Thoroughfare Plan for Marion County, Indiana. Control of access shall be as determined by the Department of Public Works or the Indiana Department of Transportation, based upon the jurisdiction of the subject facility.

b. *Parkway.* Any street designated and labelled as a "parkway" shall be a street serving through vehicular traffic, with partial control of access provided. Adjoining land on one (1) or both sides of such a street shall be predominately dedicated or used for park purposes, and shall conform to the Comprehensive Plan for Marion County. Control of access shall be as determined by the Department of Public Works.

c. *Primary thoroughfare.* Any street designated and labelled as a "primary thoroughfare" shall be designed, planned and intended to serve through vehicular traffic within Marion County or surrounding areas, in conformance with the Comprehensive Plan and Official Thoroughfare Plan for Marion County, Indiana. As a general rule, primary thoroughfares shall be located at approximately one (1) mile intervals in the north-south or east-west grid pattern. The minimum right-of-way required for a primary thoroughfare shall be as designated by the Official Thoroughfare Plan for Marion County, Indiana. Partial control of access to a primary thoroughfare shall be exercised so as to permit access to each lot abutting thereon as provided in section 731-322(a)(2)d. of this article.

d. *Secondary thoroughfare.* Any street designated and labelled as a "secondary thoroughfare" shall be designed, planned and intended to serve as a collector and distributor of through vehicular traffic from sections of land within Marion County, in conformance with the Comprehensive Plan and Official Thoroughfare Plan for Marion County, Indiana. The minimum right-of-way required for a secondary thoroughfare shall be as designated by the Official Thoroughfare Plan for Marion County, Indiana. Partial control of access to a secondary thoroughfare shall be exercised so as to permit access to each lot abutting thereon as provided in section 731-322(a)(2)d. of this article.

e. *Collector street.* Any street designated and labelled as a "collector street" shall be designed, planned and intended to serve as a collector and distributor of vehicular traffic,

carrying such traffic to and from expressways, parkways, primary thoroughfares, secondary thoroughfares, and local streets. Collector street shall include but not be limited to entrance streets of residential subdivisions.

f. *Local street.* Any street designated and labelled as a "local street" shall be designed, planned and intended primarily to provide access to lots abutting thereon.

g. *Cul-de-sac.* Any local street designated and labelled as a "cul-de-sac" shall be designed, planned and intended as such, having only one (1) end open to vehicular traffic from an expressway, parkway, primary thoroughfare, secondary thoroughfare, collector street or local street and with the closed end permanently terminated by a vehicle turnaround.

The minimum right-of-way required for a parkway, collector street, local street, or a cul-de-sac shall be per the Standards for Street and Bridge Design and Construction (Standards for Acceptance of Streets and Bridges; G.O. No. 49, 1972 of the City-County Council of Indianapolis and Marion County, Indiana).

(2) *Standards.*

a. *Streets.* Streets which are extensions or continuation of, or obviously in alignment with, any existing streets, either constructed or appearing on any validly recorded plat or survey, or valid plat previously approved by the Commission, shall bear the names of such existing streets.

b. *Alleys.*

1. In areas designated as Development Area One in the Thoroughfare Plan for Marion County, Indiana, public alleys may be utilized for infill development, and where the use of such alleys would be compatible with the development pattern of the area surrounding the proposed plat.

2. Private alleys may be utilized for any proposed plat, provided they are constructed to local street pavement thickness and geometric design as noted in accordance with the Standards for Street and Bridge Design and Construction (Standards for Acceptance of Streets and Bridges; G.O. 49, 1972 of the City-County Council of Indianapolis and Marion County, Indiana) and Chapter 691 of this Code, both documents incorporated into these regulations by reference and made a part hereof.

c. *Access to areas abutting thoroughfares.* If the area proposed to be platted abuts upon or contains an existing or proposed thoroughfare, the street plan shall provide vehicular access to each lot abutting upon such thoroughfare by one (1) of the following means:

1. The subdivision of lots which back up to the thoroughfare and front onto an interior parallel local or collector street; no access shall be provided from the thoroughfare, and screening shall be provided in a strip of land along the rear property line of such lots.

2. A series of culs-de-sac, U-shaped streets, or short loops entered from and designed generally at right angles to an interior parallel street, with the rear lines of their terminal lots backing onto the thoroughfare (see Diagram A).

3. A marginal access street (the rights-of-way between the marginal access street and the thoroughfare separated from one another by a permanent strip of land of at least fifteen (15) feet in width, outside of, and separate from, the rights-of-way of either street).

d. *Dead-ended streets.* Permanently dead-ended streets (except for cul-de-sac streets as defined in these regulations) are prohibited. A temporarily dead-ended street is permitted

in any case in which a street is proposed to be and should logically be extended beyond the limits of such plat, but is not yet constructed beyond such plat limits. The right-of-way of a temporarily dead-ended street shall extend to the property line of the plat. An adequate easement for a turnaround shall be provided for any such temporarily dead-ended street which extends two hundred fifty (250) feet in length or greater, with a temporary hammer head ("T"); or an ell ("L") shaped turnaround provided. A notation on the plat shall state that land outside the normal street right-of-way shall revert to abutting property owners when the street is continued.

(b) *Lots.*

(1) *Lot arrangement.* The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography, soil or water conditions, or other conditions, in securing building permits to build on all lots in compliance with the zoning ordinance and health and hospital regulations, and in providing driveway access to buildings on the lots from an approved street. The design, character, grade, location, and orientation of all lots so allocated shall be appropriate for the uses proposed, and logically related to existing and proposed topography. Every lot shall have sufficient and adequate access to a street constructed, or to be constructed, in accordance with the provisions, standards, and specifications of this article.

(2) *Lot dimensions.* Lot dimensions shall comply with the minimum standards of the applicable zoning district, or per zoning commitment, variance grant, cluster plat approval, or approval grant by the applicable public land use policy making body. In general:

a. Side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan.

b. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum required front yard setback from both streets, as regulated in the applicable zoning ordinance, or per zoning commitment, condition of a variance grant, or approval grant by the applicable public land use policy making body, pertaining to that site.

(3) *Lot orientation.* The lot line common to the street right-of-way shall be the front lot line. All lots shall face the front line. Whenever feasible, lots shall be arranged so that the rear lot line does not abut the side lot line of an adjacent lot.

(4) *Lots frontage and access.*

a. *Double frontage lots.* Double frontage, or through, lots shall be avoided except where necessary (as noted in section 731-322(a)) to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation.

b. *Triple frontage lots.* Triple frontage lots (those lots which have frontage on three (3) streets) are prohibited except at the entrances to a subdivision from an abutting street identified in the Thoroughfare Plan for Marion County, Indiana, as an expressway, freeway, primary arterial or secondary arterial.

c. *Access from primary and secondary arterials.* Lots shall not, in general, derive access exclusively from a primary or secondary thoroughfare, as noted in the Thoroughfare Plan for Marion County, Indiana. Where driveway access from a primary or secondary arterial thoroughfare may be necessary to several adjoining lots, the Committee may require that such lots be served by a combined access drive or frontage road in order to limit possible traffic hazards on the street. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on primary or secondary arterial thoroughfares.

(5) *Common area.* Whenever common area for a subdivision perimeter abuts a secondary or primary arterial street, as designated in the Official Thoroughfare Plan for Marion County, Indiana, such common area shall be a minimum of twenty (20) feet in width along and paralleling the length that it abuts the thoroughfare. Common areas within a subdivision shall be accessible to all its residents. Access shall be provided so that no common area is "land locked" by private lots, requiring subdivision residents to trespass across such lots in order to enter the common area.

(6) *Lot drainage.* Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots. Each lot owner shall maintain the lot grade as it relates to stormwater drainage, in compliance with the approved construction plans.

(7) *Debris and waste.* No junk, rubbish, or other waste materials of any kind, whether natural (by example: cut trees or timber, debris, rocks) or construction-related (by example: concrete, building materials), shall be buried in any land at any time, nor shall these materials be left or deposited on any lot or street at the time of the release of the maintenance bond. No items and materials as described in the preceding sentence shall be left or deposited in any area of the subdivision at the time of dedication of public improvements.

(8) *Waterbodies and watercourses.* No more than twenty-five (25) percent of the minimum lot area required under the applicable zoning ordinance may be satisfied by land that is under water. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other appropriate structure. Such culvert shall be of a design approved by the Division of Compliance of the Department of Metropolitan Development.

(c) *Building setback lines.* Minimum building setback lines shall be regulated by the setback provisions of the zoning ordinance applicable to the area proposed to be platted. Setbacks in excess may be platted at the subdivider's discretion, however, such excessive platted setbacks shall not be enforced by the Commission unless such setbacks were required as a part of a commitment, condition, approval, or site plan tied to a land use petition by the applicable public land use policy making body pertaining to the subject site.

(d) *Easements.*

(1) *Drainage.*

a. *General requirements.* When a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse. Such easements shall be of such width and construction as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with vegetative banks and adequate width for maximum potential volume of flow.

b. *Drainage easements.* If any stream or necessary surface watercourse is located in the area to be platted, adequate areas for easements along the sides of such stream or watercourse shall be allocated for the purpose of widening, sloping, improving or protecting the stream or surface watercourse. Such easements shall be a minimum width of fifteen (15) feet.

(2) *Utility.*

a. *Location.* All utility facilities, including but not limited to gas, electric power, telephone, and cable television cables, shall be located underground throughout the subdivision (per Chapter 730, Article IV of this Code). Whenever existing utility facilities are located aboveground, except when located on public streets and rights-of-way, they shall be removed and placed underground. All utility facilities existing and proposed

throughout the subdivision shall be shown on the primary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

b. *Utility easements.* As a general principle, such easements shall be located along both sides of rear lot lines and the total width of such combined lot easements shall be a minimum of ten (10) feet, unless an alternative size is required by the applicable utility or city agency. Note: All easements shall be indicated on the plat.

(e) *Public sites.* All plats submitted for Committee approval under the provisions of these regulations may allocate adequate areas for park, school, recreational and other public and semi-public sites, wherever necessary in conformity with the comprehensive plan and as required by the Commission. The location, shape, extent and orientation of such areas shall be consistent with existing and proposed topographical and other conditions, including, but not limited to, the park, school, recreational and other public and semi-public needs of the proposed subdivision. Such areas shall be made available by one (1) of the following methods:

(1) Dedication to public use.

(2) Reservation for the use of owners of land contained in the plat, by deed restriction or covenants which specify how and under what circumstances the area or areas shall be developed and maintained.

(3) Reservation for acquisition by a governmental unit or agency within a period of nine (9) months, such area to be released for private use:

a. In the event that no governmental unit or agency proceeds with such acquisition within nine (9) months of the date of the recording of said plat; or

b. If released by such governmental unit or agency prior to the expiration of the nine-month period; and

the secondary plat indicates the nature and extent of the private use into which such area may be placed if such area is not used by a governmental unit as specified.

(4) Dedication to use by a bona fide nonprofit organization for recreational, athletic or other community uses by those the organization serves.

(G.O. 2, 2002, § 9)

Sec. 731-323. Improvements and installations.

Subsections (a) through (j) of this section shall be required for all subdivisions.

(a) *Streets; minimum standards for street design and construction.*

(1) *Public streets.* All streets which are to be dedicated to, and accepted for maintenance by, the applicable municipality shall be graded, constructed and surfaced in accordance with the Standards for Street and Bridge Design and Construction (Standards for Acceptance of Streets and Bridges; G.O. 49, 1972 of the City-County Council of Indianapolis and Marion County, Indiana) and Chapter 691 of this Code, both documents incorporated into these regulations by reference and made a part hereof.

(2) *Private streets minimum standards for street design and construction.* Any residential development which, through zoning commitment, variance grant, or grant of an approval petition, is allowed the use of private streets (streets which are not be dedicated to or accepted for maintenance by the applicable municipality) shall comply with the minimum standards set forth in Chapter 731, Articles I and II of this Code relative to the design and construction of private streets, incorporated into these regulations by reference and made a part hereof.

(b) *Monuments.* The petitioner shall place permanent reference monuments in the subdivision by a registered Indiana land surveyor as required in these regulations.

(1) *Location of permanent monuments.* Where no existing permanent monuments are found, such monuments shall be installed: Prior to submission of secondary plat for approval:

- a. All quarter section corners on the boundaries of or within the area to be platted;
- b. At all angle points on exterior boundary lines of the parent tract that coincide or control the location of any liens of the proposed plat; and
- c. At the beginning and end of all curves and points of tangency of the perimeter of such plat;

Subsequent to plat recordation and after development:

- d. At the intersections of all street centerlines within such plat;
- e. At both ends of all curves on the centerlines of all streets within such plat;

In all instances noted above, the monuments shall be placed not more than six hundred (600) feet apart in any straight line.

(2) *Standards for permanent monuments.* Standards for permanent monuments shall be as follows: A five-eighths-inch or larger diameter metal rod having a metal cap on top showing either the responsible land surveyor's registration number or the Indiana Firm ID No. (865 IAC 1-12-18) and having:

- a. For street centerline demarcation: A length equal to the thickness of the pavement.
- b. For other required monument locations: A length of thirty-six (36) inches.
- c. Each monument shall:
 1. Be installed so the cross mark shall coincide with the point being marked.
 2. Be set flush with the finished grade.
 3. Be detectable by a magnetic locator.
 4. Be installed in such a manner that they will not be dislodged or removed by frost heave.

(3) *Recordings.*

a. The retracement survey of the parent tract (required by 865 IAC 1-12-19) containing the proposed subdivision, or of that part of such tract controlling the location thereof, shall be executed and recorded in the office of the Marion County Recorder before the secondary plat is submitted to the Commission for approval.

b. All required monuments that are installed subsequent to plat recordation shall be set by a registered Indiana surveyor in compliance with these regulations, the recorded subdivision plat, and the monumentation shown on the previously recorded retracement survey (of the tract containing such plat). The location and detailed description of and reference ties to such subsequent monuments shall be shown on a copy of the recorded plat. Such copy shall be newly certified regarding such monuments by the surveyor, recorded in the office of the Marion County Recorder, and cross-referenced to the original plat. The new certificate regarding these monuments set after plat recordation shall read as follows:

"I, the undersigned Indiana Land Surveyor, hereby certify that the new survey monuments shown on this copy of the previously recorded plat herein were set by me subsequent to the recordation of said plat in accordance with Chapter 731, Article III of the Code Marion County, Indiana.

Dated: _____

Signed (name): _____

PLS Registration No. _____

Seal"

(c) *Street signs.* All street signs shall be designed and built to the Standards for Street and Bridge Design and Construction (Standards for Acceptance of Streets and Bridges; G.O. 49, 1972 of the City-County Council of Indianapolis and Marion County, Indiana) and Chapter 691 of this Code.

(d) *Culverts.* All culverts shall be designed and constructed in compliance with the Stormwater Design and Construction Specification Manual, City of Indianapolis, Department of Public Works and Chapter 561 of this Code.

(e) *Sidewalks.* All sidewalks shall be designed and constructed in accordance with the Standards for Street and Bridge Design and Construction (G.O. 49, 1972/Standards for Acceptance of Streets and Bridges of the City-County Council of Indianapolis and Marion County, Indiana) and Chapter 691 of this Code. Sidewalks shall be provided along all streets internal to the subdivision, as well as any existing or proposed perimeter streets which border the subdivision.

(f) *Flood control.* Any development shall comply with all provisions of Chapter 735, Article III of this Code.

(g) *Storm drainage.* All stormwater drainage facilities are to be designed and constructed to the Stormwater Design and Construction Specification Manual, City of Indianapolis, Department of Public Works and Chapter 561 of this Code.

(h) *Water supply system.* All public and semi-public water supply systems shall be designed and constructed to the standards of the applicable water utility serving the site. In the case where private wells are permitted by the applicable zoning district, or through a variance grant or grant of an approval petition, such systems shall be designed and constructed to the standards of the Health and Hospital Corporation of Marion County, Indiana, and the Indiana State Board of Health.

(i) *Sewage disposal system.* All sewage disposal systems are to be designed and constructed to The Indianapolis Sanitary District Standards for the Design and Construction of Sanitary Sewers, City of Indianapolis, Department of Public Works and Chapter 671 of this Code. In the instance where septic systems are permitted by the applicable zoning ordinance, or through a variance grant, or grant of an approval petition, such systems shall be: 1) reviewed and approved by; and 2) designed and constructed to the standards of, the Health and Hospital Corporation of Marion County, Indiana (Chapter 14), and the Indiana State Board of Health.

(j) *Street lighting.* Reserved.

(G.O. 2, 2002, § 9)

Sec. 731-324. Resubdivision of land.

(a) *Procedure for resubdivision.* Whenever a developer desires to resubdivide an already approved secondary plat, or portion of such secondary plat, the developer shall first obtain approval for the resubdivision by the same procedures prescribed for the subdivision of land.

(b) *Resubdivision.* Resubdivision includes:

- (1) Any change in any street layout or any other public improvement;
- (2) Any change in any lot line, not including transfers between adjoining lot owners which do not create additional buildable sites;
- (3) Any change in the amount of land reserved for public use or the common use of lot owners;
- (4) Any change in any easements shown on the approved plat.

This subsection shall not include engineers "certificates of error" or "certificates of correction" (see section 731-325).

(c) *Waiver.* Whenever the Committee, in its sole discretion, makes a finding on the record that the purposes of these regulations may be served by permitting resubdivision by the procedure established in this section, the Committee may waive the requirement of subsection (a) above.

(d) *Notice.* The Committee, after an application for resubdivision that includes an express request for waiver, shall provide notice as outlined in section 731-320(d) of these regulations.

(e) *Procedure for subdivision when future resubdivision is indicated.* Whenever land is subdivided and the subdivision plat shows one (1) or more lots containing more than one (1) acre of land and there is reason to believe that such lots eventually will be resubdivided, the Committee may require that the applicant allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of streets may be made a condition of primary plat approval.

Sec. 731-325. Certificates of error or correction.

Engineers' "certificates of error" or "certificates of correction," reciting and correcting subsequently discovered engineering or surveying errors of measurements or typographical errors in recording plats, replats, or vacations, shall not be required to follow the procedures outlined in section 731-324 but shall require approval by the Administrator prior to the recording of such corrections.

Sec. 731-326. Vacation of land; plats or parts of plats.

The owner or owners of lots in any approved subdivision, including the developer, may petition the Committee to vacate the plat or part of the plat with respect to their properties. The petition shall be filed on forms provided by the Committee. In the case of a developer-initiated plat vacation, regardless of the Committee's action on the petition, the developer or its successor will have no right to a refund of any monies, fees, or charges paid to the municipality nor to the return of any property or consideration dedicated or delivered to the municipality, except as may have previously been agreed to by the Committee, the governing body, and the developer.

(1) *Notice of hearing.* Notice shall be provided as outlined in the Rules of Procedure of the Plat Committee of the Metropolitan Development Commission, in accordance with IC 5-3-1 and IC 36-7-4-712.

(2) *Statutory criteria.* The Committee shall approve or deny the petition for vacation of all or part of a plat only upon a determination that:

- a. Conditions in the platted area have changed so as to defeat the original purpose of the plat;
- b. It is in the public interest to vacate all or part of the plat; and
- c. The value of that part of the land in the plat not owned by the petitioner will not be diminished by vacation;

in accordance with IC 36-7-3-11.

(3) *Procedures.*

a. *Hearing procedures.* The Commission shall prescribe in its Rules of Procedure for the Plat Committee of the Metropolitan Development Commission, rules regarding the conduct of the hearing for plat vacation per IC 36-7-4-712.

b. *Findings.*

1. *Approval.* If, after the hearing, the Committee determines that the plat or part of the plat should be vacated, it shall make written findings (per the statutory

criteria outlined in section 731-326(2) of these regulations) and a decision approving the petition. The Committee may impose reasonable conditions as a part of its approval. The decision shall be signed by the Administrator. The Committee shall further furnish a copy of its decision to the Marion County Recorder for recording.

2. Disapproval. If, after the hearing, the Committee disapproves the petition for vacation, it shall make written findings (per the statutory criteria outlined in section 731-326(2) of this article), that set forth its reasons in a decision denying the petition and shall provide the petitioner with a copy. The decision shall be signed by the Administrator.

3. Recourse/Appeal (IC-36-7-4-712 and IC-36-7-4-708). The approval, disapproval or imposition of a condition on the approval of the vacation of all or part of a plat is a final decision of the Committee. The petitioner or an aggrieved party may appeal by following the procedures set forth in section 731-320(b)(4) of this article.

(3) *Recordation of revised/vacated plat.* Upon approval of any petition for vacation, the Commission shall direct the petitioners to prepare a revised secondary subdivision plat in accordance with these regulations. The revised secondary plat may be recorded only after having been signed by the Administrator, per section 731-320(b)(6) and IC 36-7-4-710.

Sec. 731-327. Vacation of public ways, easements or public places.

(a) *Notice of hearing.* Notice shall be provided as outlined in the Rules of Procedure of the Plat Committee of the Metropolitan Development Commission, in accordance with IC 5-3-1 and IC 36-7-4-712.

(b) *Procedures.* The Commission shall prescribe in its Rules of Procedure for the Plat Committee of the Metropolitan Development Commission, rules governing the procedure for these vacations per IC 36-7-4-712. Prior to the vacation of any thoroughfare, as noted in the Official Thoroughfare Plan for Marion County, Indiana, the Commission shall consider and adopt an amendment to remove such thoroughfare from the thoroughfare plan.

(c) *Findings.* The vacation of public ways, easements, or public places or parts of any of them may be made only upon a finding by the Plat Committee that the vacation is in the public interest, per IC 36-7-4-712.

Sec. 731-328. Specifications for documents to be submitted; primary plat.

(a) *General.* The primary plat shall be prepared by a licensed land surveyor at a convenient scale of not more than one (1) inch equals one hundred (100) feet, and the sheets shall be numbered in sequence if more than one (1) sheet is used with the current page number and total page numbers appearing on each sheet. The plat shall be of such size as is acceptable for filing in the Office of the Marion County Recorder, but shall not be larger than forty-two (42) by forty-eight (48) inches in dimension. The map prepared for the primary plat may also be used for the secondary plat.

(b) *Features.*

(1) *Primary plat.* The primary plat shall show the following:

- a. Proposed name of the subdivision, to be placed at the top of each sheet, and must clearly reference any existing subdivisions or sections (with recorded instrument number) which it abuts.
- b. Location by section, township and range, and by other legal description. For verification of plat closure, the text legal description and the annotation shall match exactly.

Permitted tolerances:

1. Acreage shall be calculated to 0.001 AC (1/1000th).

2. Plat perimeters shall close to within +/-0.05 feet.
3. Individual lots, blocks, etc., shall close to within +/-0.01 feet.
- c. Name, address, signature, seal and certification of the registered land surveyor who prepared the primary plat.
- d. Scale, noted in writing and graphically, of the primary plat, including graphic scale, north arrow and date.
- e. Boundary lines of the proposed subdivision indicated by solid, heavy lines, based upon a traverse with angular and lineal dimensions shown on the plan.
- f. Locations, dimensions and names of all existing streets or other public ways, railroad and utility rights-of-way or easements, parks and other public open spaces, permanent buildings or structures, and section and municipal corporation boundary lines within one hundred (100) feet of the area proposed to be platted.
- g. Radii, central angles, tangents, lengths of arcs, curvatures, angles at street intersections and a complete street traverse of each street within and on the perimeter of the plat.
- h. In the case of a replat, all descriptive lines of the original plat being vacated, shown as dotted lines in relationship to the lines of the new plat, the new plat being shown clearly in solid lines. A copy of the original plat shall be filed with the proposed replat.
- i. Boundary lines of adjoining and adjacent unsubdivided and subdivided land, showing owners' names within one hundred (100) feet of the area proposed to be platted, including the recorded name, date and number of any such subdivided land (this item is not to be included on the plat submitted for secondary approval and recording).
- j. Existing zoning of the area proposed to be platted and of land adjoining and adjacent thereto.
- k. Layout of all streets, including the names, widths (pavement and rights-of-way) and designations thereof, including whether public or private.
- l. Layout and numbers of lots, including accurate dimensions (in acreage or square feet), of lots. The number of lots and range of lot numbers shall clearly be stated. In new developments, lot numbers shall be consecutive within each section or phase, and may not be repeated in subsequent sections or phases within a subdivision.
- m. Areas to be allocated by park, school, recreational, and other public and semi-public sites, including any common open space, with the purpose proposed for each such area to be indicated on the primary plat. Any area to be dedicated or reserved for public use, or to be reserved by deed or covenant for common use by owners of land contained in the proposed plat, shall further be noted in the applicable dedication, deed or covenant.
- n. Minimum building setback lines, in conformance with the applicable zoning district, showing dimensions.
- o. Areas to be allocated for public service or utility easements, showing accurate dimensions.
- p. If the primary plat is to be divided into sections for platting, an indication of the boundaries and numbers of such sections.
- q. Floodway or floodway fringe delineation, as established by Chapter 735, Article III of this Code.
- r. Drainage covenant and sanitary sewer covenant, as established by Chapter 561 and Chapter 671 of this Code.

(2) *Area map.* The area map shall be at an appropriate scale (not greater than one (1) inch equals one thousand (1,000) feet) and shall indicate the following:

- a. The name and location of the proposed subdivision.
- b. The scale of the area map, north arrow, and date.
- c. Street, lot and tract lines of parcels of land and subdivisions within one thousand (1,000) feet of the area proposed to be platted and between such area and the nearest thoroughfare.
- d. The zoning of adjoining and adjacent land with the boundaries of the area map.
- e. Existing or proposed park, school, recreational and other public or semi-public sites within the boundaries of the area map.
- f. A diagram of the proposed course of surface water drainage from the point where water leaves the proposed plat to a legal ditch, natural stream or public storm sewer, to be shown by flow lines, arrows and descriptive notes.

(3) *Topographic map.* The topographic map shall be drawn upon a copy of the primary plat and shall indicate:

- a. The name and location of the proposed subdivision.
- b. The scale of the topographic map, north arrow, and date.
- c. Contours based upon the U.S. Coast and Geodetic Datum on U.S. Geological Survey Datum bench marks at one-foot vertical intervals, showing clearly by flow lines and arrows the drainage pattern of surface water, both natural and proposed, within and through the area proposed to be platted, the location and elevation of such bench marks to be shown thereon. The Administrator may permit five-foot vertical contour intervals in areas of very steep slopes, such as ravines.
- d. Existing sewers, water mains, culverts and other underground facilities within or adjacent to the tract indicating pipe size, grades and exact location as obtained from public records, together with a sketch plan of a group sewage disposal system, if proposed, which has been approved in writing by the Division of Health of the Health and Hospital Corporation of Marion County, Indiana.
- e. If private disposal systems are proposed, the location and results of an on-site soil survey, including a determination of soil load rate, glacial till depth and other drainage characteristics to determine feasibility of an absorption field. This shall be performed for each lot in the location of the proposed absorption field. Such testing shall be conducted by a certified soil scientist, as required by the Division of Health of the Health and Hospital Corporation of Marion County, Indiana.
- f. Other significant conditions of the area proposed to be platted such as watercourses, wetlands, land subject to flooding (both floodway and floodway fringe areas), rock outcrop, wooded areas, houses, and any other structures.

(4) *Fee.* At the time of the filing of an application for primary plat approval, the applicant shall pay to the Commission, as a fee for the checking and verifying of such plat, a sum as set by the Commission by resolution and as made a part of its Rules of Procedure for the Plat Committee of such Commission.

Sec. 731-329. Secondary subdivision plat.

(a) *General.* The secondary plat shall be presented in India ink on tracing cloth or reproducible mylar at the same scale and containing the same information, except for any changes or additions required by the Committee, as shown on the primary plat. All certifications shall be made in permanent black ink with each signature accompanied by the printed name. The primary plat may be used as a secondary plat if it

meets these requirements and is revised in accordance with the Committee's disposition. All revision dates must be shown as well as the following:

- (1) A correct and accurate legal description of the land platted, indicating any changes from the description appearing in the last record transfer of such land.
- (2) Notation of any self-imposed restrictions, and restrictions which may have been placed upon the property through rezoning, approval or variance petitions, and locations of any building lines proposed to be established, if required by the Committee in accordance with these regulations.
- (3) Endorsement of the Health and Hospital Corporation of Marion County, Indiana.
- (4) Endorsement on the plat of every person having a security interest in the subdivision property that they are subordinating their liens to all covenants, servitudes, and easements imposed on the property.
- (5) Lots numbered as approved by the Administrator.
- (6) Addresses, as assigned by the address technician of the Department of Metropolitan Development.
- (7) All monuments erected, corners, and other points established in the field in their proper places. The material of which monuments, corners, or other points are made shall be noted at the representation thereof or by legend, except that lot corners need not be shown. The legend for metal monuments shall indicate the kind of metal, the diameter, length, and weight per lineal foot of the monuments.

(b) *Preparation.* The secondary plat shall be prepared by a registered land surveyor licensed by the State of Indiana.

Sec. 731-330. Vacation of plats or parts of plats.

The Commission shall prescribe, in the Rules of Procedure of the Plat Committee, or through petition forms prescribed by those rules of procedure and adopted by the Commission, the specifications for documents to be submitted in the vacation of plats or parts of plats.

Sec. 731-331. Vacation of public ways, easements, or public places or parts thereof.

The Commission shall prescribe, in the Rules of Procedure of the Plat Committee, or through petition forms prescribed by those rules of procedure and adopted by the Commission, the specifications for documents to be submitted in the vacation of public ways, easements or public places or parts thereof. In addition, the following documents shall be provided:

- A list of names, addresses and consent of all property owners abutting the site to be vacated.
- Legal description or survey of the area to be vacated or other drawing suitable for recording. For street vacations, and alley right-of-way vacations, subterranean and air rights vacations, surveys shall be completed by a registered land surveyor or a professional engineer. The number of copies of this document required shall be as prescribed by the Committee.

Sec. 731-332. Construction of language and definitions.

(a) *Construction of language.* The language of this article shall be interpreted in accordance with the following regulations:

- (1) The particular shall control the general.
- (2) In the case of any difference of meaning or implication between the text of this article and any illustration or diagram, the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

(4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

(5) A "building" or "structure" includes any part thereof.

(6) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."

(7) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either . . . or", the conjunction shall be interpreted as follows:

- a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
- b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
- c. "Either . . . or" indicates that all the connected items, conditions, provisions, or events shall apply singly but not in combination.

(b) *Definitions.* The words in the text or illustrations of this article shall be interpreted in accordance with the following definitions. The illustrations and diagrams in this section provide graphic representation of the concept of a definition; the illustration or diagram is not to be construed or interpreted as a definition itself.

Access. The way by which vehicles shall have ingress to and egress from a land parcel or property and the street fronting along such property or parcel.

Administrator. Administrator of the Division of Planning or such division having jurisdiction, or their appointed representative, per IC 36-7-4-710.

Alley. Any public right-of-way which has been dedicated or deeded to and accepted by the public for public use as a secondary means of public access to a lot(s) otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from such lot(s).

Applicant. The owners or owners, legal and equitable, of land within the territorial limits of Marion County, Indiana, who submit an application for plat approval under the provisions of this article.

Building. Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind, having a permanent roof supported by columns or walls.

Collector street. See street, collector.

Commission. The Metropolitan Development Commission of Marion County, Indiana.

Commitment. An officially recorded agreement concerning and running with the land as recorded in the Office of the Marion County Recorder.

Committee. The Plat Committee of the Metropolitan Development Commission of Marion County, Indiana, or, in the case of a combined hearing as permitted under IC 36-7-4 and section 730-200 of this Code, the hearing examiner of the Metropolitan Development Commission.

Comprehensive plan. The Comprehensive Plan for Marion County, Indiana, or segment thereof, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4.

Condition. An official agreement between the municipality and the petitioner concerning the use or development of the land as specified in the letter of grant of a petition as signed by the Administrator or secretary of the applicable appointed land use body.

Corner lot. See lot, corner.

Covenant. A legal agreement concerning the use of land.

Cul-de-sac. See street, cul-de-sac.

Front lot line. See lot line, front.

Full control of access. The condition where access, including its location, is fully controlled in connection with streets to give preference to through traffic by providing access connections only with selected streets and by prohibiting both crossings at grade and direct driveway connections.

Hardsurfaced. Quality of an outer area being solidly constructed of pavement, brick, paving stone, or a combination thereof.

Local street. See street, local.

Lot (this article only). That portion of a subdivision proposed to be recorded as a lot of record for the plat.

Lot area. The area of a horizontal plane bounded on all sides by the front, rear, and side lot lines that is available for use or development and does not include any area lying within the right-of-way of any public or private street, alley, or easement for surface access (ingress or egress) into the subject lot or adjoining lots.

Lot, corner. A lot abutting upon two (2) or more streets at their intersections, or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees (see Diagram D).

Lot, through. A lot abutting two (2) parallel streets, or abutting two (2) streets which do not intersect at the boundaries of the lot (see Diagram D).

Lot line. The legal boundary of a lot as recorded in the Office of the Marion County Recorder.

Lot line, front. The lot line(s) coinciding with the street rights-of-way; in the case of a corner lot, both lot lines coinciding with the street rights-of-way shall be considered front lot lines; or in the case of a through lot, the lot line which most closely parallels the primary entrance of the primary structure shall be considered the front lot line, or so declared by the Administrator (see Diagram C).

Lot of record. A lot which is part of a subdivision or a lot or a parcel described by metes and bounds, the description of which has been so recorded in the Office of the Recorder of Marion County, Indiana.

Marginal access street. See street, marginal access.

Partial control of access. The condition where access, including its location, is partially controlled in connection with streets to give preference to through traffic to a degree that in addition to access connections with selected streets, there may be permitted some crossings at grade and some direct driveway connections, with design and location approved by public authority, including the Metropolitan Development Commission of Marion County, Indiana.

Plat. An officially recorded map, as recorded in the Office of the Marion County Recorder, or a map intended to be recorded indicating the subdivision of land including, but not limited to, boundaries and locations of individual properties, streets, and easements.

Proposed right-of-way. See right-of-way, proposed.

Public improvement. Any drainageway or easement, street, culvert, pedestrian way, sidewalk, street sign, monument, flood control or storm drainage system, sewage disposal system, or other facility for which the municipality may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which municipal responsibility is established.

Right-of-way. Specific and particularly described strip of land, property, or interest therein devoted to and subject to the lawful use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially recorded by the Office of the Marion County Recorder.

Right-of-way, proposed. Specific and particularly described land, property, or interest therein devoted to and subject to the lawful public use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially described in the Marion County Thoroughfare Plan as adopted and amended by the Metropolitan Development Commission.

Secondary plat. A map indicating the subdivision of land, intended to be recorded and prepared in accordance with the requirements of this article.

Setback. The minimum horizontal distance established by ordinance between a proposed right-of-way line or a lot line and the setback line (see Diagram B).

Setback line. A line that establishes the minimum distance a building, structure, or portion thereof, can be located from a lot line or proposed right-of-way line (see Diagram B).

Sidewalk. A hardsurfaced walk or raised path along and often paralleling the side of the street intended for pedestrian traffic.

Staff. The staff of the Metropolitan Development Commission of the Department of Metropolitan Development, City of Indianapolis/Marion County, Indiana.

Street, collector. A street primarily designed and intended to carry vehicular traffic movement at moderate speeds (e.g., thirty-five (35) mph) between local streets and arterials while allowing direct access to abutting property(ies) (see Diagram E).

Street, cul-de-sac. A street having only one (1) open end which is permanently terminated by a vehicle turnaround (see Diagram E).

Street, expressway. A street so designated by the Official Thoroughfare Plan for Marion County, Indiana, as amended.

Street, freeway. A street so designated by the Official Thoroughfare Plan for Marion County, Indiana, as amended.

Street, local. A street primarily designed and intended to carry low volumes of vehicular traffic movement at low speeds (e.g., twenty (20) to thirty (30) mph) within the immediate geographic area with direct access to abutting property(ies) (see Diagram E).

Street, marginal access. A local street with control of access auxiliary to and located on the side of an arterial, thoroughfare, expressway, or freeway for service to abutting property(ies) (see Diagram E).

Street, parkway. A street serving through vehicular traffic and generally equal to or more than five thousand two hundred eighty (5,280) feet in length, the adjoining land on one (1) or both sides of which is predominantly dedicated or used for park purposes, and shall conform to the Comprehensive Plan and the Official Thoroughfare Plan for Marion County, Indiana, as amended.

Street, primary arterial. A street so designated by the Official Thoroughfare Plan for Marion County, Indiana, as amended.

Street, private. A privately held right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for such purposes. A private street may be comprised of pavement, shoulders, curbs, sidewalks, parking space, and the like.

Street, public. A publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and

pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for such purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and the like.

Street, secondary arterial. A street so designated by the Official Thoroughfare Plan for Marion County, Indiana, as amended.

Structure. A combining or manipulation of materials to form a construction, erection, alteration or affixation for use, occupancy, or ornamentation, whether located or installed on, above, or below the surface of land or water.

Subdivision. The division of any parcel of land shown as a unit, as part of a unit or as contiguous units, on the last preceding transfer of ownership thereof, into two (2) or more parcels or lots, for the purpose, whether immediate or future, of transfer of ownership or building development.

Thoroughfare. A street primarily serving through vehicular traffic, including freeways, expressways, primary arterials, and secondary arterials.

Thoroughfare plan. The segment of the Comprehensive Plan for Marion County, Indiana, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4 that sets forth the location, alignment, dimensions, identification and classification of freeways, expressways, parkways, primary arterials, secondary arterials, or other public ways as a plan for the development, redevelopment, improvement, and extension and revision thereof.

Through lot. See lot, through.

Yard, front. An open space unobstructed to the sky, extending fully across the lot while situated between the front lot line and a line parallel thereto, which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line (see Diagram C).

(c) *Graphics.*

Item	Diagram
Access to areas abutting thoroughfares	A
Curb cut	B
Curb line	B
Driveway	B
Lot	D
Lot, corner	D
Lot, through	D
Lot line, front	C
Setback	B
Setback line	B
Street, collector	E
Street, cul-de-sac	E
Street, local	E
Street, marginal access	E
Yard, front	C

(G.O. 2, 2002, § 10)

Sec. 731-333. Severability.

If any provision of this article shall be held to be invalid, its invalidity shall not affect any other provision of this article that can be given effect without the invalid provision, and for this purpose the provisions of this article are hereby declared to be severable.

Sec. 731-334. Enforcement.

Violations of this article are enforceable per Chapter 730, Article V of this Code.

Sec. 731-335. Attestation.

This article shall be in full force and effect from and after adoption in compliance with IC 36-7-4.

**APPENDIX
COVENANTS**

ENFORCEMENT COVENANT

"Metropolitan Development Commission: The Metropolitan Development Commission, its successors and assigns shall have no right, power or authority to enforce any covenants, restrictions or other limitations contained herein other than those covenants, restrictions or limitations that expressly run in favor of the Metropolitan Development Commission; provided that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provision of this article, or any conditions attached to approval of this plat by the Plat Committee."

SITE DISTANCE COVENANT

"Site obstruction: No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and nine (9) feet above the street shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of such street lines, or in the case of a rounded property corner, from the intersection of the street lines extended, the same sight line limitations shall apply to any lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage is maintained at a sufficient height to prevent obstruction of such sight lines."

STORM DRAINAGE COVENANT (DRAINAGE AND FLOOD CONTROL)

As stated in section 561-232, the owner(s) of this parcel shall include the following covenant on the recorded plat:

"It shall be the responsibility of the owner of any lot or parcel of land within the area of this plat to comply at all times with the provisions of the drainage plan as approved for this plat by the Division of Compliance of the Department of Metropolitan Development of the City of Indianapolis and the requirements of all drainage permits for this plat issued by such department."

SANITARY SEWER COVENANT

The owner(s) of this parcel shall include the following covenant on the recorded plat, as per section 671-157:

"It shall be the responsibility of the owner of any lot or parcel of land within the area of this plat to comply at all times with the provisions of the sanitary sewer construction approved by the Division of Compliance of the Department of Metropolitan Development and the requirements of all sanitary sewer construction permits for this plan issued by such Division. Owner further covenants that no building, structure, tree or other obstruction shall be erected, maintained, or allowed to continue on the portion of the owner's real estate in which the easement and right-of-way are granted without express written permission, when duly recorded, shall run with the real estate. The Division of Compliance and the Department of Public Works and their agents, shall have the right to ingress and egress, for temporary periods only, over the owner's real estate adjoining such easement and right-of-way, when necessary to construct, repair or maintain sanitary sewer facilities."

(G.O. 2, 2002, § 11)

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